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The President

EXECUTIVE ORDER

AMENDMENT OF EXECUTIVE ORDER NO. 8234 OF SEPTEMBER 5, 1939, PRESCRIBING REGULATIONS GOVERNING THE PASSAGE AND CONTROL OF VESSELS THROUGH THE PANAMA CANAL IN ANY WAR IN WHICH THE UNITED STATES IS NEUTRAL

By virtue of the authority vested in me by section 9 of title 2 of the Canal Zone Code, approved June 19, 1934, Executive Order No. 8234¹ of September 5, 1939, prescribing regulations governing the passage and control of vessels through the Panama Canal in any war in which the United States is neutral, is hereby amended by adding thereto, immediately following paragraph numbered 2 thereof, a new paragraph numbered 3 reading as follows:

"3. Possession of cameras on board vessels; photographing from vessels. While on board any vessel in transit through the Panama Canal, no person shall (a) have or remain in possession of any camera, or (b) make any photograph, sketch, picture, drawing, map, or graphical representation of any of the locks of the Panama Canal, or of any portion of any such lock, or of any area within or adjacent to any such lock, or of any object or structure within or upon any such area, without first obtaining the permission of the Governor of The Panama Canal, and promptly submitting the product obtained to the Governor for such action as he may deem necessary. The master of every vessel that transits the Panama Canal (a) shall prior to the beginning of each transit cause all cameras on board such vessel, or which are brought on board by embarking passengers, or otherwise, to be collected and delivered to him, and shall retain the said cameras in his possession, in a secure and inaccessible place, until the disembarkation of the original possessors thereof or until the transit through the Canal is completed, and (b) shall during

such transit take such further action, in cooperation with the Canal authorities, as may be necessary to prevent the making, by any person on board such vessel in the waters of the Canal Zone, of any photograph, sketch, picture, drawing, map, or graphical representation which is forbidden by this paragraph; but these provisions shall not apply with respect to any person who has obtained permission as provided in this paragraph. Any person who shall violate any provision of this paragraph shall be punishable as provided in section 9 of title 2 of the Canal Zone Code."

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
March 25, 1940.

[No. 8382]

[F. R. Doc. 40-1229; Filed, March 26, 1940;
9:59 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 721—PROCLAMATIONS AND DETERMINATIONS RELATING TO CORN ALLOTMENTS

REGULATIONS GOVERNING THE DETERMINATION OF 1940 FARM CORN ACREAGE ALLOTMENTS AND NORMAL YIELDS*

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721.214	Definitions.

By virtue of the authority vested in the Secretary of Agriculture by sections 301, 329, and 375 of the Agricultural Adjust-

* §§ 721.211 to 721.214, inclusive, issued under the authority contained in sec. 329 (b), 52 Stat. 52, sec. 375 (b), 52 Stat. 66, sec. 301 (b) 13 (E), 52 Stat. 202; 7 U.S.C. 1329, 1375, 1301.

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¹ 4 F.R. 3823.



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ment Act of 1938, as Amended, I do prescribe the following regulations applicable for determining farm corn acreage allotments and normal yields for the 1940 crop in counties in the commercial corn-producing area under Title III of said Act, to be in force and effect until rescinded, amended, or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.

Section 329 (b) of said Act, provides that:

The acreage allotment to the county for corn shall be apportioned by the Secretary, through the local committees, among the farms within the county on the basis of tillable acreage, crop-rotation practices, type of soil, and topography.

Section 301, (b) (13) (E) of said Act, provides that:

"Normal Yield" for any farm, in the case of corn, * * * shall be the average yield per acre * * * for the farm, adjusted for abnormal weather conditions and * * * for trends and yields, during the ten calendar years * * * immediately preceding the year with respect to which such normal yield is used in any computation authorized under this title. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into consideration abnormal weather conditions, the normal yield for the county, and the yield in years for which data are available.

§ 721.211 *Determination of farm corn acreage allotments for 1940.* The county committee, with the assistance of other local committees in the county and subject to the approval of the State committee, shall determine farm acreage allotments of corn for farms in the commercial corn-producing area for the calendar year 1940 on the basis of tillable acreage, crop-rotation practices, type of soil and topography of the cropland as follows:

(a) *Determination with respect to tillable acreage, and crop rotation practices.*

As a basis for giving consideration to tillable acres and crop rotation practices in the apportionment of the county corn acreage allotment to farms, the county committee shall first determine for each farm the usual acreage of corn. This acreage shall be the average acreage of corn planted or such average acreage adjusted for participation, as the case may be during the years 1936 and 1937.

The county and community committees shall review the usual acreage for the several farms and determine whether any usual acreage is not representative for the farm. In making this determination the committees should consider factors such as a change in type of farming operations, change in farm land, change in cropland acreage, drought, flood, and any other unusual conditions which may apply to the farm at the present time.

If it is determined that the 1936-1937 average acreage is not representative of the farm, the committee shall appraise a usual acreage which is more representative for the farm. This appraised usual acreage shall be based on the usual acreage for similar farms in the county or community, or limited to a figure computed by applying to the cropland on the farm the township ratio of the average acreage of corn in the township in 1936 and 1937 to the cropland in the township.

(b) *Determination with respect to type of soil and topography.* As a basis for giving consideration to types of soil and topography in the apportionment of the county corn acreage allotment to farms, the county committee shall determine for each farm the indicated corn acreage which shall represent the acreage of corn that should be planted in the light of good soil management for the particular types of soil comprising the farm and the erodibility as related to the topography of the cropland. Such indicated acreage shall not be given more than equal weight with the usual acreage of corn for the farm in the determination of the farm corn acreage allotment.

(c) *Determination of corn areas within a county.* In counties in which there exist two or more distinct types of land with respect to adaptation to the production of corn, areas will be established for purposes of determining corn allotments which will reflect the adaptability of the different types of land to the production of corn. Such areas will be designated as "A," "B," "C," etc., for purposes of identification of the various areas within the county and will be subject to the approval of the State committee. For counties in which these areas are established, the indicated acreages of corn and the cropland ratios used for determining limits of appraised usual acreages of corn, will be determined on the basis of the applicable data for each such area.

(d) *Adjustment to county acreage allotment.* The farm usual acreage of corn, determined under paragraph (a)

or (c) of this section, adjusted by use of the indicated corn acreage, determined under paragraph (b), adjusted pro rata to equal the county acreage allotment, shall be the farm acreage allotments, except that if the committees determine that the allotment so derived does not represent the corn acreage which the farm might reasonably be expected to utilize in 1940, the committees may recommend a corn acreage allotment for the farm. In such cases where the usual acreage is less than the computed allotment the committees may recommend an allotment which shall not be less than the usual acreage nor greater than the computed allotment, except on farms where sweet corn is being grown under contract in 1940 and was not so grown in 1936 and 1937, the corn allotment may be less than would otherwise be established by an amount equal to the acreage contracted for the production of sweet corn.*

§ 721.212 *Determination of individual farm corn yields.* Individual farm yields for corn shall be determined on the basis of the historical record for the farm for the period 1930-1939, inclusive, adjusted for abnormal weather conditions and for trends in yields, or, where accurate corn yield records are not available, the farm yield will be determined by appraisal, taking into consideration abnormal weather conditions, the normal yield for the county and other similar farms, the yields in years for which data are available and the normal yield established for the farm in 1939. Individual farm corn yields shall be weighted by the individual corn acreage allotments and adjusted to meet the county normal corn yield.*

§ 721.213 *Miscellaneous provisions applicable to farm corn acreage allotments and yields—(a) Opportunity to furnish data.* Any person owning or operating a farm in a commercial corn-producing county may submit to the county committee any information or data which is relevant to the factors to be taken into consideration by the county committee in determining the farm corn acreage allotment and yield.

(b) *Appeals.* Any person who is dissatisfied with the determination of the county committee with respect to the corn acreage allotment and/or yield for any farm in which he has an interest may, within 15 days after notice of such allotment is forwarded to or available to him, appeal from such determination by following the procedure governing appeals under the 1940 Agricultural Conservation Program.

(c) *Instructions and forms.* The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued with his approval such instructions and forms as may be required to carry out these regulations.*

§ 721.214 *Definitions.* As used in these regulations and in all forms and documents in connection therewith, unless the content or subject matter other-

wise requires, the following terms shall have the meaning ascribed:

(a) The term "Act" means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) The term "Secretary" means the Secretary of Agriculture of the United States.

(c) The term "Department" means the United States Department of Agriculture.

(d) The term "commercial corn-producing area" means that area determined and established by § 721.201 (the proclamation of commercial corn-producing area for the year 1940) made by the Secretary of Agriculture on November 25, 1939.¹

(e) "Farm" means all adjacent or nearby farm land under the same ownership, whether operated by one person or field-rented in whole or in part to one or more persons, and constituting a unit with respect to the rotation of crops.

If the operator and all the owners entitled to share in the crops request and agree, a farm may include any adjacent or nearby farm land if the county committee determines that:

(1) The entire area of land is operated by the one person as part of one unit in the rotation of crops and with work-stock, farm machinery, and labor substantially separate from that for any other land;

(2) The yields and productivity of the differently owned tracts do not vary substantially;

(3) The combination is not being made for the purpose of increasing acreage allotments or primarily for the purpose of effecting performance; and

(4) The separately owned tracts constitute a farming unit for the operator and will be regarded in the community as constituting one farm in 1940.

A tract of land will not be considered as a farm unless (1) it contains at least three acres of farm land, or (2) the gross income normally obtained each year from the production of crops on the land is at least \$100.

(f) The term "acreage allotment of corn for 1940" means that acreage in the commercial corn-producing area determined and established under § 721.202 (the proclamation of corn acreage allotment for the commercial corn-producing area) issued by the Secretary of Agriculture on November 25, 1939.¹

(g) The term "county acreage allotment of corn" for the calendar year 1940 means that acreage of corn apportioned to the county under § 721.203 (the determination of county corn acreage allotments and county normal yields of corn for 1940) issued by the Secretary of Agriculture on December 28, 1939.²

(h) The term "farm corn acreage allotment" means the acreage allotment established for a farm with respect to corn by apportioning the county acreage allotment of corn among all the corn-producing farms in the county.

(i) The term "State committee" means the group of persons designated within any State to assist in the administration of the agricultural conservation programs in such State.

(j) The term "county committee" means the group of persons elected within any county to assist in the administration of the agricultural conservation program in such county.

(k) The term "local committee" means any committee, whether or not a county committee, utilized under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended.*

Done at Washington, D. C., this 26th day of March 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-1236; Filed, March 26, 1940; 11:26 a. m.]

[40-Tob-12 Supp. 1]

PART 724—SUPPLEMENT TO PROCEDURE FOR THE DETERMINATION OF BURLEY TOBACCO ACREAGE ALLOTMENTS FOR 1940

The "Procedure for the Determination of Burley Tobacco Acreage Allotments for 1940" (40-Tob-12) is hereby amended by adding to § 724.220¹ the following:

"Notwithstanding any other provisions of this section a normal tobacco acreage shall not be established for any new farm unless the following conditions have been met:

"(1) The farm operator shall have had two years or more experience in growing Burley tobacco as a share-cropper, tenant, or as a farm operator during the past five years;

"(2) The farm operator shall be living on the farm and largely dependent on this farm for his livelihood;

"(3) There shall be adequate curing barn space available, on the farm, for the curing of tobacco;

"(4) The farm covered by the application shall be the only farm owned or operated by the farm operator on which any tobacco (Burley or other kinds) is produced;

"(5) No kind of tobacco other than Burley will be grown on the farm in 1940; and

"(6) There shall be 10 acres or more of cropland in the farm."

Done at Washington, D. C., this 26th day of March 1940. Witness my hand

¹ 4 F. R. 4497.

and seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-1235; Filed, March 26, 1940; 11:26 a. m.]

CHAPTER VIII—SUGAR DIVISION

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF SUGAR COMMERCIALLY RECOVERABLE FROM SUGARCANE IN PUERTO RICO FOR THE 1939-40 CROP YEAR

Pursuant to the provisions of section 302 (a) of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby make the following determination:

§ 802.41b *Determination of sugar commercially recoverable from sugarcane in Puerto Rico.* The amount of sugar commercially recoverable from the sugarcane grown on a farm in Puerto Rico and marketed (or processed by the producer) for the extraction of sugar shall be obtained by multiplying the number of short tons of such sugarcane by the number of hundredweights of sugar, raw value, commercially recoverable per ton of such sugarcane, computed in accordance with the applicable provisions of the "Revision of Determination of Fair and Reasonable Prices for the 1939-40 Crop of Puerto Rican Sugarcane," Pursuant to the Sugar Act of 1937," issued March 15, 1940, and the quantity of 96° sugar thereby obtained shall be converted to raw value basis in accordance with the provisions of Title I of the Sugar Act of 1937. (Sec. 302, 50 Stat. 910; 7 U.S.C., Sup. IV, 1132)

Done at Washington, D. C., this 26th day of March 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary.

[F. R. Doc. 40-1239; Filed, March 26, 1940; 11:27 a. m.]

PART 821—SUGAR QUOTAS

DECISION AND ORDER OF THE SECRETARY OF AGRICULTURE ALLOTING THE 1940 SUGAR QUOTA FOR THE DOMESTIC BEET SUGAR AREA

General Sugar Quota Regulations, Series 7, No. 1, Revision 1,² issued by the Secretary of Agriculture pursuant to the provisions of the Sugar Act of 1937 (hereinafter referred to as the "act"), established a 1940 sugar quota for the domestic beet sugar area of 1,549,898 short tons, raw value.

Under the provisions of section 205 (a) of the act, the Secretary is required to

¹ 5 F. R. 1084.

² 5 F. R. 1121.

¹ 4 F. R. 4698.

² 4 F. R. 4980.

allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for any area. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulations prescribe.

On February 7, 1940, the Secretary issued the following finding:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress), and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1940 sugar quota for the domestic beet sugar area is necessary to prevent disorderly marketing of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States * * *."

The Secretary, on the basis of that finding and pursuant to General Sugar Regulations, Series 2, No. 2, Revised,⁴ gave due notice of a public hearing to be held at Denver, Colorado, on February 19, 1940, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the 1940 sugar quota for the domestic beet sugar area among persons who market such sugar in the continental United States.

The hearing⁵ was duly held at the time and place specified in the notice.

The presiding officer announced at the hearing that the finding of necessity for the allotment of the quota for the domestic beet sugar area was in the nature of a preliminary finding, based on the best information available to the Secretary at the time, and that it would be appropriate at the hearing to present evidence on the basis of which the Secretary might affirm, modify, or change such preliminary finding and make or withhold allotment of the quota in accordance therewith (R. pp. 10, 11). No testimony was offered to the effect that allotment of the 1940 quota was unnecessary, or that the Secretary should, in any way, modify or change his preliminary finding.

In regard to the manner in which allotments should be made, a representative of all processors of beet sugar during the 1939-40 crop season introduced in evidence a stipulation, signed by all such processors, in which it was agreed that the amounts of sugar opposite the names of the respective processors constituted a fair, efficient, and equitable allotment

of the quota for 1940, in accordance with the standards and provisions of section 205 (a) of the act. (R. Ex. 12) It was agreed, further, that any increase or decrease in the 1940 quota for the domestic beet sugar area should be prorated among interested persons on the basis of the allotments set forth in the agreement. The stipulation also provided as follows:

"It is further stipulated that the processors, parties hereto, hereby severally waive suggested findings of fact, notice of tentative findings, the filing of briefs and right of objection or appeal with respect to allotments as aforesaid made by the Secretary of Agriculture under and in accordance with this stipulation * * *."

The representative of the Mt. Clemens Sugar Beet Growers Association testified that that association intends to operate during the next crop season a sugar factory at Mt. Clemens, Michigan, owned by the Mt. Clemens Sugar Company and heretofore operated by the Northeastern Sugar Company of Bay City, Michigan. (R. p. 58) The witness introduced in evidence (1) a copy of a court order (R. Ex. 10) authorizing the trustee of the James Davidson Trust, the owner of a large majority of the stock of the Mt. Clemens Sugar Company, to vote the shares of stock of that company so as to effect the execution of the proposed lease, and (2) a form of lease (R. Ex. 11) which, it was stated, would be executed between the Mt. Clemens Sugar Company and the association as soon as time would permit (R. p. 71). The witness requested that a marketing allotment be made to the Northeastern Sugar Company, and that the residue of any such allotment over and above the inventory of the Northeastern Sugar Company as of January 1, 1940, be made available to the Mt. Clemens Sugar Beet Growers Association. (R. p. 58)

The representative of the Northeastern Sugar Company testified that that company would not operate the Mt. Clemens plant during the 1940-41 season, and that the company had no objection to the request made by the Mt. Clemens Sugar Beet Growers Association so long as it had the right to sell its January 1, 1940, effective inventory. (R. p. 60)

Order

In view of the foregoing, and pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered that:

§ 821.51 *Original allotments.* The 1940 sugar quota for the domestic beet sugar area is hereby allotted to the following companies in the amounts which appear opposite their respective names:

Name of company:	Allotment (short tons, raw value) ¹
Amalgamated Sugar Company--	127, 594
American Crystal Sugar Company--	188, 732

Name of company—Contd.	Allotment (short tons, raw value) ¹
Central Sugar Company-----	10, 633
Franklin County Sugar Company-----	12, 759
Garden City Sugar Company-----	7, 921
Great Lakes Sugar Company-----	33, 228
Great Western Sugar Company-----	398, 720
Gunnison Sugar Company-----	8, 463
Holly Sugar Corporation-----	206, 332
Isabella Sugar Company-----	10, 633
Lake Shore Sugar Company-----	15, 949
Layton Sugar Company-----	10, 845
Los Alamitos Sugar Company-----	11, 606
Menominee Sugar Company-----	7, 602
Michigan Sugar Company-----	75, 706
Monitor Sugar Company-----	19, 405
Mt. Clemens Sugar Beet Growers Association-----	438
National Sugar Company-----	8, 506
Northeastern Sugar Company-----	6, 739
Ohio Sugar Company-----	7, 443
Paulding Sugar Company-----	8, 506
Spreckels Sugar Company-----	176, 770
Superior Sugar Company-----	10, 101
Union Sugar Company-----	31, 101
Utah-Idaho Sugar Company-----	154, 016
Total-----	1, 549, 893

¹In accordance with the terms of the stipulation, the allotments have been converted to short tons, raw value, and adjusted to the revised quota set forth in General Sugar Quota Regulations, Series 7, No. 1, Revision 1.

(Sec. 205, 50 Stat. 906; 7 U.S.C., Sup. IV, 1115)

§ 821.52 *Restrictions on marketing.* The above-mentioned companies are hereby prohibited from shipping, transporting, or marketing in interstate commerce, or in competition with sugar or liquid sugar shipped, transported, or marketed in interstate or foreign commerce, any sugar or liquid sugar produced from sugar beets grown in the domestic beet sugar area in excess of the marketing allotments set forth above. (Sec. 205, 50 Stat. 906; 7 U.S.C., Sup. IV, 1115)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 26th day of March 1940.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-1238; Filed, March 26, 1940; 11:27 a. m.]

TITLE 19—CUSTOMS DUTIES

CHAPTER I—BUREAU OF CUSTOMS

[T.D. 50018]

COAL, COKE, AND BRIQUETS

MARCH 23, 1940.

To Collectors of Customs and Others Concerned:

Coal, coke made from coal, and coal or coke briquets imported from the following countries and entered for consumption or withdrawn from warehouse for consumption during the period from January 1 to December 31, 1940, inclusive, will not be subject to the tax of ten cents

⁴ 4 F.R. 520.

⁵ 5 F.R. 630.

per hundred pounds provided in the internal-revenue code, section 3423:

Canada.
Mexico.
France, including French Indo-China.

Coal, coke made from coal, and coal or coke briquets produced in the following countries, imported into the United States directly or indirectly therefrom and entered for consumption or withdrawn from warehouse for consumption during the calendar year 1940 will be exempt from the tax by virtue of the internal-revenue code, section 3420:

Belgium.
China.
Netherlands.
United Kingdom.

The same entry privilege under the internal-revenue code, section 3420, shall be granted to such fuels produced in the Union of Soviet Socialist Republics, imported directly or indirectly therefrom and entered for consumption or withdrawn from warehouse for consumption during the period from January 1 to August 5, 1940, inclusive.

Such fuels will be subject to the tax when produced in and imported from Germany and entered for consumption or withdrawn from warehouse for consumption during the period from January 1 to December 31, 1940, inclusive.

The above list does not include countries from which there have been no importations of coal or allied fuels during the past two calendar years. Further information concerning the taxable status of such fuels imported during the calendar year 1940 will be furnished upon application therefor to the Bureau.

[SEAL]

W. R. JOHNSON,
Acting Commissioner.

[F. R. Doc. 40-1234; Filed, March 26, 1940;
11:06 a. m.]

TITLE 47—TELECOMMUNICATION CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 4—RULES GOVERNING BROADCAST SERVICES OTHER THAN STANDARD BROADCAST

The Commission on March 22, 1940, effective immediately, suspended the operation of § 4.73 (b) ¹ of its Rules and Regulations until further order of the Commission.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 1230; Filed, March 26, 1940;
10:42 a. m.]

¹ 5 F.R. 934.

Notices

DEPARTMENT OF AGRICULTURE.

Food and Drug Administration.

[FDC Docket No. 15]

NOTICE OF A PUBLIC HEARING FOR PURPOSE OF RECEIVING EVIDENCE UPON BASIS OF WHICH REGULATIONS MAY BE PROMULGATED, PRESCRIBING THE LABEL STATEMENTS, CONCERNING THE VITAMIN, MINERAL, AND OTHER DIETARY PROPERTIES OF FOODS THAT PURPORT TO BE OR ARE REPRESENTED FOR SPECIAL DIETARY USES BY HUMANS, THAT ARE NECESSARY IN ORDER FULLY TO INFORM PURCHASERS AS TO THE VALUE OF SUCH FOODS FOR SUCH SPECIAL DIETARY USES

Pursuant to the provisions of subsection (e) of section 701 of the Federal Food, Drug, and Cosmetic Act [sec. 701, 52 Stat. 1055; 21 U.S.C. 371 (e)], notice is hereby given to all interested persons that a public hearing will be held beginning at 10 a. m., April 29, 1940, in Rooms A, B, and C, Departmental Auditorium, Constitution Avenue, between 12th and 14th Streets NW., Washington, D. C., for the purpose of receiving evidence upon the proposal of the Food and Drug Administration herein set forth and made a part hereof, upon the basis of which and pursuant to the authority vested in the Secretary of Agriculture by the provisions of section 403 (j) of said Act [sec. 403 (j), 52 Stat. 1048, 21 U.S.C. 343 (j)], regulations may be promulgated prescribing the label statements, concerning the vitamin, mineral, and other dietary properties of foods that purport to be or are represented for special dietary uses by humans, that are necessary in order fully to inform purchasers as to the value of such foods for such special dietary uses.

All interested persons are invited to attend the hearing, either in person or by duly authorized representative, and to present relevant and material evidence. Affidavits in quintuplicate may be presented in lieu of oral testimony either at the time of the hearing or by sending such affidavits to Michael F. Markel, Room 2317, South Building, Department of Agriculture, Independence Avenue, between 12th and 14th Streets Southwest, Washington, D. C., so as to be received by the date stated above. Such affidavits, if relevant and material, may be received and considered as evidence in the hearing but, in determining the weight that shall be given to such affidavits as evidence, the lack of opportunity for cross-examination will be considered.

The proposal herein set forth and made a part of this notice is subject to adoption, rejection, amendment, or modification by the Secretary, in whole or in

part, as the evidence presented by the hearing may require.

Mr. Michael F. Markel is hereby designated as the Presiding Officer who shall conduct the hearing in the place and stead of the Secretary, with power to administer oaths and to do all things necessary and appropriate to the proper conduct of the hearing.

The hearing will be conducted in accordance with the Rules of Procedure for hearings held under the Federal Food, Drug, and Cosmetic Act, as published in the FEDERAL REGISTER of Friday, January 13, 1939, on pages 223 to 225, inclusive, and as amended by the Secretary's order published in the FEDERAL REGISTER of Saturday, July 22, 1939, on page 3401.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Dated, March 26, 1940.

§ 125.00 *General.* (a) A food may be subject to the requirements of these regulations by reason (among other reasons) of its purporting to be or being represented for use—

- (1) by infants, children, aged persons, or persons suffering or convalescing from disease;
- (2) in the cure, mitigation, treatment or prevention of disease;
- (3) in increasing or decreasing weight, or otherwise affecting the structure or any function of the body; or
- (4) in preventing or correcting any dietary deficiency.

(b) A food shall not be considered to be subject to these regulations by reason of any statement showing the quantity of any vitamin, mineral, or other constituent contained in such food if—

- (1) such vitamin, mineral, or other constituent is naturally present in such food, and is not, in whole or in part added thereto directly or through any treatment or process;
- (2) such food is not an extract, concentrate, or other preparation of any vitamin, mineral, or other dietary factor; and
- (3) no representation is made or suggested concerning the effect of such food or any vitamin, mineral or other constituent thereof.

(c) The definitions and interpretations of terms contained in section 201 of the Act shall be applicable also to such terms when used in these regulations.

(d) No requirement of these regulations shall be considered to relieve any food from any requirement of the Act or regulations thereunder, including the requirement that its labeling shall not be misleading in any particular.

§ 125.01 *General labeling requirements.* (a) A food which purports to be or is represented for any special dietary use by man shall bear on its label a state-

ment of the dietary properties upon which its value for such use is based.

(b) A food which purports to be or is represented for any special dietary use by man by reason of its being an infant food or of its containing any vitamin, mineral, or other dietary constituent, shall bear on its label directions for use showing the quantity of such food to be consumed during any period of one day. If such purported or represented use is by persons of different ages or age groups, or of other groups having special dietary requirements, such directions shall show such quantity for each such age, age group, and other group.

§ 125.02 *Exemptions.* (a) A shipment or other delivery of a food shall be exempt from compliance with the labeling requirements of § 125.01; paragraphs 2, 3, and 4 of § 125.03 (a); and paragraphs 2, 3, and 4 of § 125.04 (a) if—

(1) the purported or represented use of such food is only by infants or invalids or both;

(2) in case the special dietary use of such food is based on the content of vitamin A, vitamin B, or thiamin, vitamin C or ascorbic acid, vitamin D, riboflavin, or nicotinic acid, the label bears a statement showing the quantity of such vitamin present in such food;

§ 125.03 *Label statements relating to vitamins.* (a) (1) If the purported or represented special dietary use of a food by man is based on its vitamin content, the label shall bear the common or

(3) in case the special dietary use of such food is based on the content of calcium, phosphorus, iron or iodine, the label bears a statement showing the quantity of such mineral present in such food;

(4) the label of such food bears the statement "To be used only on the prescription or under the direction of a physician;"

(5) no representation or suggestion with respect to the dietary use or effect of such food is made otherwise than to legally licensed physicians; and

(6) such shipment or delivery is made for use exclusively on the prescription or under the direction of such physicians. But such exemption shall expire when such shipment or delivery, or any part thereof, is offered or sold or otherwise disposed of for any use other than on the prescription or under the direction of a physician. The causing by any person of such exemption to expire shall be considered to be an act of misbranding for which such person shall be liable.

(b) A shipment or other delivery of a vitamin preparation shall be exempt from compliance with the labeling requirements of these regulations and of the requirements of clause (2) of paragraph (b) of the general regulations promulgated under section 405 of the Act if such vitamin preparation is not in retail packages and is shipped or delivered for use in the manufacture of another article or for repackaging for distribution in retail packages.

usual name of each vitamin on which such use is based. Such name, if such vitamin is listed in paragraph (2) of this subsection, shall be the name or one of the synonyms so listed.

(2) If such use is based on the content of vitamin A, vitamin B, or thiamin, vitamin C or ascorbic acid, vitamin D, riboflavin, or nicotinic acid, the label shall bear a statement of the proportion of the minimum daily requirement for such vitamin supplied by such food when consumed in the quantity prescribed by the directions for use on the label; except that, in the cases of cows' milk and evaporated milk, the purported or represented dietary use of which is based on the content of vitamin D, and in which such vitamin content is increased through irradiation or the direct addition of a vitamin D concentrate, the label shall bear, in lieu of such statement, a statement of the number of U. S. P. units of vitamin D in a specified quantity of such milk or evaporated milk. The term "vitamin A", as used in these regulations, includes vitamin A and its precursors.

(3) If the represented special dietary use or one of the special dietary uses of a food by man is a specific representation with respect to its values in supplying vitamin D to prevent or correct a dietary deficiency, the label shall bear the statement, "When the skin is adequately exposed to direct sunshine there is no established need for vitamin D in the diet."

(4) If such use is based on the content of any vitamin not listed in paragraph (2), and it has not been established that such vitamin is needed in human nutrition, or if the minimum daily requirement for such vitamin has not been established, the label shall bear a statement setting forth such facts.

(b) For the purposes of these regulations, the following shall be considered to be minimum daily requirements:

(1) For the vitamin A, 1,500 U. S. P. units for an infant not more than one year old, 2,500 U. S. P. units for a child more than one but less than twelve years old, 3,000 U. S. P. units for a person twelve or more years old.

(2) For vitamin B, (thiamin), 75 U. S. P. units for an infant not more than one year old, 125 U. S. P. units for a child more than one but less than six years old, 200 U. S. P. units for a child six or more but less than twelve years old, 250 U. S. P. units for a person twelve or more years old.

(3) For vitamin C (ascorbic acid), 200 U. S. P. units (10 milligrams) for an infant not more than one year old, 400 U. S. P. units (20 milligrams) for a child more than one but less than twelve years old, 500 U. S. P. units (25 milligrams) for a person twelve or more years old.

(4) For vitamin D, 600 U. S. P. units for any person, irrespective of age.

(5) For riboflavin, 0.5 milligram for an infant not more than one year old, 0.75 milligram for a child more than one but

less than twelve years old, and 1.0 milligram for a person twelve or more years old.

(6) For nicotinic acid 5 milligrams for a child less than twelve years old, and 10 milligrams for a person twelve or more years old.

§ 125.04 *Label statements relating to minerals.* (a) (1) If the purported or represented special dietary use of a food by man is based on its mineral content, the label shall bear the common or usual name of each element upon which such use is based.

(2) If such use is based on the content of calcium (Ca), phosphorus (P), iron (Fe), or iodine (I), the label shall bear a statement of the proportion of the minimum daily requirement for such element supplied by such food when consumed in the quantity prescribed by the directions for use on the label.

(3) If such use is based on the content of iodine and such food when consumed in the quantity prescribed by the directions for use on the label supplies more than 2 milligrams of iodine in one day, the label shall bear the statement, immediately following such directions, "Warning—When used according to these directions this food supplies such quantity of iodine that it should not be consumed over any extended period except on the advice of a physician."

(4) If such use is based on the content of any element not listed in paragraph (2), and if it has not been established that such element is needed in human nutrition, or if the minimum daily requirement for such element has not been established, the label shall bear a statement setting forth such facts.

(b) For the purposes of these regulations, the following shall be considered to be minimum daily requirements:

(1) For calcium (Ca), 750 milligrams (0.75 gram) for any person more than one year of age, except pregnant or lactating women in which case the minimum daily requirement shall be considered to be 1.0 gram.

(2) For phosphorus (P), 750 milligrams (0.75 gram) for any person more than one year of age, except pregnant or lactating women in which case the minimum daily requirement shall be considered to be 1.0 gram.

(3) For iron (Fe), 7.5 milligrams (0.0075 gram) for a child more than one but less than six years old, 10 milligrams (0.01 gram) for a person six or more years old, except pregnant or lactating women in which case the minimum daily requirement shall be considered to be 15 milligrams (0.015 gram).

(4) For iodine (I), 0.15 milligram (0.00015 gram) for any person more than one year of age.

§ 125.05 *Labeling of certain infant food.* (a) If the purported or represented special dietary use of a food for infants is based on its simulation of human milk or its suitability as a complete or partial substitute for such milk,

the label shall bear a statement of the percentage of moisture, protein, fat, and digestible carbohydrates contained in such food.

(b) If such food when prepared for feeding contains in each fluidounce less than 75 U. S. P. units of vitamin A, less than 3 U. S. P. units of vitamin B₁ (thiamin), less than 20 U. S. P. units of vitamin C (ascorbic acid), less than 25 U. S. P. units of vitamin D, less than 0.02 milligram of riboflavin, less than 10 milligrams of calcium (Ca), less than 10 milligrams of phosphorus (P), or less than 0.05 milligram of iron (Fe), the label shall bear a statement advising the purchaser that such substance or substances must be supplied in whole or in part, as the case may be, from other sources.

§ 125.06 *Label statements relating to protein, fat, available carbohydrates, and non-assimilable constituents.* (a) If the purported or represented special dietary use of a food by man is based on its content of protein, fat, available carbohydrates, or non-assimilable constituents, the label shall bear a statement of the percentage of protein, fat, available carbohydrates, or non-assimilable constituents, as the case may be, contained in such food.

§ 125.07 *Labeling of hypoallergenic food.* (a) If the purported or represented special dietary use of the food by man is based on diminished allergenic property, the label shall bear—

(1) the common or usual name of such food, if any there be; and

(2) in case it is fabricated from two or more ingredients, the common or usual name and the quantity or proportion of each such ingredient, including spices, flavorings, and colorings. If the common or usual name of such food or of any such ingredient does not show the source thereof, such name shall be so qualified as to reveal such source. If such diminished allergenic property results from any treatment or processing of such food or such ingredient, the label shall also bear a statement of the nature and effect of such treatment or processing.

[F. R. Doc. 40-1237; Filed, March 26, 1940; 11:27 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

IN RE: APPLICATION OF ABRAHAM GERSTENZANG, INC., AND SUNDRY OTHER PARTIES PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT OF 1938, AND RULES AND REGULATIONS ISSUED THEREUNDER FOR PERMISSION TO EMPLOY LEARNERS IN THE ARTIFICIAL FLOWER INDUSTRY AT WAGE RATES LESS THAN THE APPLICABLE MINIMUM

NOTICE OF CHANGE OF DATE OF HEARING

Whereas applications have been made by Abraham Gerstenzang, Inc., and sun-

dry other parties under section 14 of the Fair Labor Standards Act of 1938, 52 Stat. 1060, and Regulations, Part 522, as amended (Regulations Applicable to the Employment of Learners pursuant to section 14 of the Fair Labor Standards Act—Title 29, Labor, Chapter V, Wage and Hour Division) issued by the Administrator thereunder for permission to employ learners in the artificial flower industry at wages less than the applicable minimum wage specified in section 6 of the Act; and

Whereas pursuant to the said Act and Section 522.4 of the said Regulations, notice was given and published in the FEDERAL REGISTER March 15, 1940 (5 F.R. 1070) of a public hearing to be held in the Raleigh Hotel, 12th Street and Pennsylvania Avenue NW., Washington, D. C., to commence at 10 A. M. on April 2, 1940, before Gustav Peck, Assistant Director of the Hearings Branch of the Wage and Hour Division, duly authorized by the Administrator as presiding officer to conduct said hearing, to take testimony for the purpose of determining, and to determine the questions set forth in the said notice; and

Whereas interested parties have shown for good and sufficient reason that they are unable to be present on April 2, 1940, and since it would not appear that a postponement of the said hearing until April 3, 1940, would unduly inconvenience or be otherwise prejudicial to other interested parties.

Now, therefore, notice is hereby given of a change of date for said hearing from 10 A. M. April 2, 1940, to 10 A. M. April 3, 1940, at the same location and before the same presiding officer, Gustav Peck, as aforesaid.

Signed at Washington, D. C., this 26 day of March, 1940.

PHILIP B. FLEMING,
Colonel, Corps of Engineers.
Administrator.

[F. R. Doc. 40-1240; Filed, March 26, 1940; 11:35 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of March, A. D. 1940.

[File No. 57-16]

IN THE MATTER OF SIOUX FALLS GAS COMPANY, ET AL.

ORDER APPROVING APPLICATION

Central U. S. Utilities Company, a registered holding company having filed an application pursuant to section 10 (a) (2) of the Public Utility Holding Company Act of 1935 concerning the acquisition by it of all of the physical assets of Sioux Falls Gas Company, a wholly owned sub-

siary of Central U. S. Utilities Company, in consideration of the assumption by Central U. S. Utilities Company of all of the liabilities of Sioux Falls Gas Company, the cancellation of an open account running from Sioux Falls Gas Company to Central U. S. Utilities Company, which as at September 30, 1939 stood in the amount of \$873,822.87, and the return to Sioux Falls Gas Company for cancellation of all of its outstanding capital stock; a second application having been filed by this same applicant pursuant to Rule U-12D-1 promulgated under the Act concerning the sale of substantially all of said assets of Sioux Falls Gas Company to Central Electric and Telephone Company, a corporation not presently subject to the Act, in consideration of \$1,400,000 in cash and 4,000 shares \$50 per share par value 6% Preferred Stock of Central Electric and Telephone Company; a third application having been filed by this same applicant pursuant to section 10 (a) (1) of the Act concerning the acquisition by it of the above described preferred stock of Central Electric and Telephone Company; and a fourth application having been filed by this same applicant pursuant to Rule U-12D-1 promulgated under the Act concerning the sale by it to Loewi & Company (investment bankers of Milwaukee, Wisconsin) of said 4,000 shares of preferred stock of Central Electric and Telephone Company in consideration of \$160,000;

Sioux Falls Gas Company having filed an application pursuant to Rule U-12F-1 promulgated under the Act concerning the sale of its physical assets under the above described terms to Central U. S. Utilities Company;

A public hearing¹ having been duly held after appropriate notice, the Commission having examined the record in the matter;

It is ordered, That the above described applications be and the same hereby are approved subject to the following terms and conditions:

1. That except as herein otherwise expressly provided by the conditions of this order, the steps involved in the various applications shall be carried out and effected respectively as set forth in and for the purposes represented by such applications, as amended;

2. That within ten days after the consummation of the transactions set forth in the applications, the applicants shall file with this Commission a Certificate of Notification showing that the transactions have been effected as set forth in and for the purposes represented by the applications, as amended, and in accordance with the terms of this order.

3. That the item of earned surplus in the accounts of Sioux Falls Gas Company which Central U. S. Utilities Company proposed to consolidate into its earned surplus account be credited to the capital surplus account of Central U. S. Utilities Company;

¹ 4 F.R. 998.

4. That the net profit to be recorded by Central U. S. Utilities Company as the result of these transactions be credited to earned surplus of Central U. S. Utilities Company;

5. That when all expenses, other than those covered by condition 6 hereof, incurred in connection with the preparation of the instant applications and prosecution of the proposed transactions, shall be actually paid, the applicants shall file a detailed statement of such expenses showing the names of persons or entities to whom such payments were made, the amounts of such payments, the accounts charged and a detailed description of the services rendered for which such payments were made;

6. The Commission reserves jurisdiction over the payment of any fees to Travis, Brownback & Paxson in connection with the preparation of the application or in otherwise prosecuting the proposed transactions;

7. That this order becomes effective only upon the condition that Guaranty Trust Company of New York, the indenture trustee under the indenture of Associated Electric Company, release from the operation of said indenture all the assets of Sioux Falls Gas Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-1231; Filed, March 26, 1940;
10:56 a. m.]

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22nd day of March, A. D. 1940.

[File Number 59-5]

**IN THE MATTER OF THE MIDDLE WEST
CORPORATION AND ITS SUBSIDIARY COM-
PANIES, RESPONDENTS**

[Public Utility Holding Company Act of
1935]

**ORDER GRANTING EXTENSION OF DATES FOR
ANSWER AND HEARING**

The Middle West Corporation having filed on March 20, 1940 an application to extend until May 9, 1940 the time for answer, and until June 28, 1940 the date for commencement of hearings,¹ in the above entitled proceedings;

The Commission having examined such application and having considered the grounds presented in support thereof, and the public interest and the interest of investors and consumers;

It is ordered, That said application be, and it hereby is, granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-1232; Filed, March 26, 1940;
10:56 a. m.]

¹ 5 F.R. 947.

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1940.

[File No. 8-1]

**IN THE MATTER OF THOMPSON ROSS
SECURITIES CO.**

ORDER UPHOLDING REGISTRATION

The registration of Thompson Ross Securities Co. as a dealer on over-the-counter markets, having come on for hearing before the Commission upon the question of revocation, or suspension pending final determination upon revocation; and

The Commission having this day made and filed its findings of fact and opinion in this matter;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, that the registration of Thompson Ross Securities Co. shall be not revoked, and that the proceedings herein be dismissed.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-1233; Filed, March 26, 1940;
10:56 a. m.]